

House Daily Reader

Thursday, February 27, 2003

[illegible]

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

652I0735

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1234 -**
02/22/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Hunhoff, Adelstein, Cradduck, Frost, Garnos, Heineman, Kraus, Madsen, Michels, Miles, Olson (Mel), Peterson (Bill), Rhoden, Teupel, Van Etten, and Wick and Senators Olson (Ed), Abdallah, Albers, Brown, and Moore

1 FOR AN ACT ENTITLED, An Act to create a commission on health care.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. There is created the South Dakota Commission on Health Care within the Office
4 of the Governor. The commission shall gather data to assess the health status of South Dakotans,
5 identify priorities for health care that address financing, delivery, and programming, and develop
6 measurable health care outcomes that describe the achievement for selected statewide initiatives.
7 The commission shall also recommend health care policy, monitor health care environments, and
8 address the health care needs of South Dakotans.

9 Section 2. The commission shall be appointed by the Governor and shall consist of no more
10 than twenty-five members. The secretary of health, the secretary of human services, the secretary
11 of social services, and the director of the division of insurance shall serve as ex officio members
12 in an advisory capacity. The additional members of the commission shall be representative of
13 each of the following groups:



- 1 (1) Business/employers;
- 2 (2) Consumers;
- 3 (3) Insurers;
- 4 (4) Health care providers;
- 5 (5) Public/community health workers;
- 6 (6) Governor's office;
- 7 (7) Former legislators;
- 8 (8) Tribal members;
- 9 (9) Mental health providers; and
- 10 (10) Indian Health Services.

11 Section 3. The terms of the members of the first commission shall be:

- 12 (1) One-third selected for one-year terms;
- 13 (2) One-third selected for two-year terms; and
- 14 (3) One-third selected for three-year terms.

15 All subsequent terms shall be for three years. Members of the initial commission are eligible
16 for reappointment. No commission member may serve more than two consecutive three-year
17 terms on the commission. Persons appointed to the commission to fulfill the unexpired portion
18 of a term shall serve for the unexpired portion of that term and may be reappointed for up to two
19 full three-year terms.

20 Section 4. The commission shall select a chair from among its members. The commission
21 shall meet at least three times each year. However, it may meet more often at the call of the chair
22 or upon written request of a majority of the members.

23 Section 5. The commission shall annually report its findings and recommendations to the
24 Governor and the Legislature by December first.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

655I0052

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 8** - 02/03/2003

Introduced by: Senators Moore, de Hueck, Ham, Kleven, Koskan, and Nachtigal and
Representatives Hennies, Konold, Madsen, Murschel, Van Gerpen, and Wick
at the request of the Interim Juvenile Offenses and Sentencing Committee

1 FOR AN ACT ENTITLED, An Act to reconstitute the Juvenile Justice and Delinquency Act
2 Advisory Group and to revise its authority and responsibilities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-15-28 be amended to read as follows:

5 1-15-28. The Department of Corrections shall be responsible, through the ~~state advisory~~
6 ~~group~~ Council of Juvenile Services established in § 1-15-29, for supervising the preparation and
7 administration of the state's plan required by Section 223(a) for participation in the formula
8 grants program of the Act. The Department of Corrections shall be responsible for providing
9 staff and support services to the ~~state advisory group~~ Council of Juvenile Services and
10 implementing the plan in a manner which will ensure compliance with Sections 223(a)(12), (13),
11 and (14) of the Act. The department shall seek necessary authority and take all necessary action
12 as provided by law to enforce compliance with the Act.

13 Section 2. That § 1-15-29 be amended to read as follows:

14 1-15-29. There is hereby established a twenty-member ~~state advisory group~~ Council of



1 Juvenile Services to be appointed by the Governor and shall be comprised of individuals who
2 have training, experience, or special knowledge of juvenile delinquency prevention or treatment
3 or of the administration of juvenile justice. The membership of the ~~advisory group~~ Council of
4 Juvenile Services shall comply with Section 223(a)(3) of the Juvenile Justice and Delinquency
5 Act. The initial members to be appointed shall draw lots to determine who will hold the eight
6 three-year terms, the six two-year terms, and the six one-year terms. Thereafter, each member
7 shall serve ~~terms~~ a term of three years. Members may be reappointed and may continue to serve
8 an expired term until replaced by the Governor. A chairperson, who may not be a full-time
9 federal, state, or local employee, for the ~~advisory group~~ Council of Juvenile Services shall be
10 chosen annually by a majority vote of its members at the first meeting each fiscal year.

11 Section 3. That § 1-15-30 be amended to read as follows:

12 1-15-30. The ~~state advisory group~~ Council of Juvenile Services shall be responsible for the
13 following:

- 14 (1) In conjunction with the secretary of the Department of Corrections, establish policy
15 on how the formula grants program of the Juvenile Justice and Delinquency Act is to
16 be administered in South Dakota;
- 17 (2) Approve the state plan, and any modifications thereto, required by 223(a) of the Act
18 prior to submission to the Office of Juvenile Justice and Delinquency Prevention;
- 19 (3) Submit annual recommendations to the Governor and Legislature concerning the
20 functions of the ~~advisory group~~ Council of Juvenile Services and the status of the
21 state's compliance with the Act;
- 22 (4) Approve or disapprove grant applications and other funding requests submitted to the
23 Department of Corrections under §§ 1-15-27 to 1-15-31, inclusive, and assist with
24 monitoring grants and other fund awards;

- 1 (5) Assist the Department of Corrections in monitoring the state's compliance with the
2 Act;
- 3 (6) Study the coordination of the various juvenile intervention, prevention, treatment, and
4 rehabilitation programs;
- 5 (7) Study effective juvenile sentencing, adjudication, and diversion policies and
6 provisions;
- 7 (8) Make a special study of, and make an annual report to the Governor, the Unified
8 Judicial System, and the Legislature by June thirtieth of each year concerning, the
9 appropriate administration of and provision for children in need of supervision in this
10 state;
- 11 (9) Contact and seek regular input from juveniles currently under the jurisdiction of the
12 juvenile justice system; and
- 13 ~~(7)~~(10) Perform other such activities as determined by the Governor, the secretary of
14 the Department of Corrections, or the Council of Juvenile Services.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0313

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB 40** - 02/25/2003

Introduced by: The Committee on Education at the request of the Department of Education
and Cultural Affairs

1 FOR AN ACT ENTITLED, An Act to establish a statewide accountability system for public
2 schools.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. A single, statewide state accountability system is established. The system shall
5 hold public schools and public school districts accountable for the academic achievement of their
6 students and shall ensure that all public schools and all public school districts make adequate
7 yearly progress in continuously and substantially improving the academic achievement of their
8 students.

9 Section 2. The state accountability system shall be based on the South Dakota Content
10 Standards in reading and mathematics approved by the South Dakota Board of Education. The
11 yearly progress of students shall be measured by the state academic assessments as may be
12 prescribed by the Legislature, and shall take into account the achievement of all public
13 elementary school and secondary school students in reading and mathematics annually. An
14 additional academic indicator shall be used in the measurement of yearly progress: the additional
15 academic indicator for the public K-8 elementary schools shall be the annual rate of student



attendance; the additional academic indicator for public 9-12 high schools shall be the annual rate of graduation.

Section 3. The state accountability system shall establish a timeline for adequate yearly progress that ensures that no later than the 2013-2014 school year, all students meet or exceed the state's proficient level of academic achievement as measured by the state's assessments. Annual measurable objectives in both reading and mathematics shall be established to ensure continuous and substantial academic improvement of the achievement of all public school students as well as sub-groups of public school students, including economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. The annual measurable objectives shall identify a single minimum percentage of students who are required to meet or exceed the proficient level on the academic assessments. The objectives shall be applied separately in reading and mathematics and shall be applied to all students and to each sub-group of students described in this section. The annual measurable objectives shall be used for determining adequate yearly progress.

Section 4. The state accountability system shall determine annually the progress of each public school and public school district, including the annual progress of sub-groups of students, using annual assessment data and data from one additional academic indicator. The school's progress in mathematics and reading shall be compared separately to the state's annual objectives for adequate yearly progress in mathematics and reading. The results of the comparisons shall be used to determine the school's achievement level based on the state's achievement standards. The district's progress in mathematics and reading shall be compared separately to the state's annual objectives in mathematics and reading. The results of the comparisons shall be used to determine the district's achievement levels based on the state's achievement standards.

Section 5. Four levels of academic achievement shall be defined, including a proficient level,

1 and shall be known as South Dakota's achievement standards. The four levels shall be used to
2 categorize public schools and public school districts based on the comparison of their
3 achievement levels in mathematics and reading to the state's annual objectives.

4 Section 6. The state accountability system shall include consequences for schools and
5 districts in the form of sanctions, rewards, and recognition. The consequences shall be based on
6 the school's or district's ranking on the state's achievement standards.

7 Section 7. The state accountability system will be implemented and administered by the
8 Department of Education and Cultural Affairs.

9 Section 8. The South Dakota Board of Education may promulgate administrative rules
10 pursuant to chapter 1-26 to establish the state accountability system, including:

- 11 (1) A definition of adequate yearly progress;
- 12 (2) A valid and reliable method of calculating adequate yearly progress in mathematics
13 and reading for all public schools and public school districts, including methods for
14 determining both the status and improvement;
- 15 (3) A definition of four levels of student achievement, including a proficient level;
- 16 (4) Establishment of names and descriptors for the four levels of student achievement;
- 17 (5) Determination of cut scores within the scoring data from the state assessments in
18 mathematics and reading for each of the four levels of student achievement;
- 19 (6) Establishment of the state's annual measurable objectives for academic progress
20 through 2013-2014 in both reading and mathematics;
- 21 (7) Establishment of a system of consequences for public schools, including sanctions,
22 rewards, and recognition;
- 23 (8) Establishment of a system of consequences for public school districts, including
24 sanctions, rewards, and recognition;

- 1 (9) Determination of a valid and reliable method for calculating a graduation rate for each
2 public high school;
- 3 (10) Determination of a valid and reliable method for calculating the attendance rate for
4 each public elementary and middle school;
- 5 (11) Establishment of an appeal process for public schools and public school districts;
- 6 (12) Establishment of a process whereby the state accountability system will be periodically
7 reviewed to assure that it is fair and appropriate for the public schools of South
8 Dakota, and is in compliance with federal law; and
- 9 (13) Any other administrative rule that is deemed necessary to fulfill the requirements of
10 the federal education act, Public Law No. 107-110, § 1111(b)(2)(A), 115 Stat., as in
11 effect on January 1, 2003.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

707I0332

SENATE ENGROSSED NO. **SB 41** - 02/05/2003

Introduced by: The Committee on Commerce at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to provide for the creation of a no solicitation calls list for
2 persons wishing not to receive unsolicited telephone calls, to create a telephone solicitation
3 account, and to establish certain fees and civil penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 49-31-1 be amended to read as follows:

6 49-31-1. Terms used in this chapter mean:

- 7 (1) "Addressable," enabling users to connect and communicate with a specific party easily
8 and securely on a dial-up, addressable basis;
- 9 (2) "Available," ensuring that network services are available if the user requires them,
10 even at times of peak usage; designed to be a nonblocking network, minimizing
11 network contention;
- 12 (3) "Broadband network," the broadband network extends the range of fully switched,
13 addressable, robust transport services over the fiber network which increase in
14 multiples of OC-1 (51.84 Mbps), including OC-3 (155.52 Mbps) and OC-12 (622.08
15 Mbps);



- 1 (4) "Centron and centron-like services," services which provide custom switching features
2 which include distributive dial tone, select number screening, toll restriction and
3 screening, nonattendant busy out, nonattend and call transfer, and select trunk hunting
4 and screening;
- 5 (5) "Commission," the Public Utilities Commission;
- 6 (6) "Common carrier," anyone who offers telecommunications services to the public;
- 7 (7) "Eligible telecommunications carrier," a local exchange carrier designated by the
8 commission pursuant to 47 U.S.C. § 214(e) as of January 1, 1998, as eligible to
9 receive universal service support funding;
- 10 (8) "Feature rich," providing the specific features and functionality required by users'
11 voice, data, video, graphics, imaging, and multimedia applications; functionally
12 beyond mere transport;
- 13 (8A) "Financial institution," any financial institution as defined in 15 U.S.C. § 6827 as of
14 January 1, 2003, including any financial institution affiliate that controls, is controlled
15 by, or is under common control with the financial institution;
- 16 (9) "Incumbent local exchange carrier," a local exchange carrier, including successors and
17 assigns, which was providing local exchange service within a defined service area in
18 this state on or before February 8, 1996;
- 19 (10) "Interexchange telecommunications service," telecommunications service between
20 points in two or more exchanges;
- 21 (11) "LATA," a local access and transport area;
- 22 (12) "Local exchange area," ~~a~~ any geographic area established by a local exchange carrier
23 as filed with or approved by the commission for the administration of local
24 telecommunications service which may consist of one or more central offices or wire

1 centers together with associated facilities used in furnishing telecommunications
2 service in that area;

3 (13) "Local exchange service," the access to and transmission of two-way switched
4 telecommunications service within a local exchange area;

5 (14) "Narrowband network," a fully switched digital network covering the transport range
6 from 0 to 144,000 bits per second (144 Kbps), offering two 64 Kbps information B
7 (Bearer) channels and a 16 Kbps signaling D (Delta) channel;

8 (15) "New products and services," any new product or service introduced after July 1,
9 1988, which is not functionally required to provide local exchange service.
10 Repackaging of any product or service which is fully competitive with any service
11 regulated as emerging competitive or noncompetitive is not considered a new product
12 or service;

13 (16) "Optional service," a any limited or discretionary service offered by a
14 telecommunications company which is not functionally required for the provision of
15 noncompetitive services and which the customer has the option to purchase;

16 (17) "Private," ensuring confidentiality and integrity of network transport of messages
17 without dependency on specialized customer premise security devices;

18 (18) "Rate of return regulation," the procedure used by the commission to approve the
19 charge for a service which gives due consideration to the public need for adequate,
20 efficient, and reasonable service and to the need of the public utility for revenues
21 sufficient to enable it to meet its total current cost of furnishing such service, including
22 taxes and interest, and including adequate provision for depreciation of its utility
23 property used and necessary in rendering service to the public, and to earn a fair and
24 reasonable return upon the value of its property;

(19) "Register," a list of names and telephone numbers of residential telephone subscribers who have properly enrolled to prevent unsolicited telephone calls;

(20) "Residential telephone subscriber," any person residing in the state who has residential telephone service, including cellular service, personal communications service, and wireless local loop service, primarily used for personal use;

(21) "Robust," easily and economically sustaining the rigors of growth and extensive public use;

~~(20)~~(22) "Rural telephone company," a any local exchange company as defined in 47 U.S.C. § 153(37) as of January 1, 1998;

~~(21)~~(23) "Secure," physically precluding unwanted access to network and information;

~~(22)~~(24) "Service area," a geographic area established by the commission for the purpose of determining universal service obligations and support mechanisms. For a rural telephone company, the service area is the company's study area or any other area designated jointly by the commission and the Federal Communications Commission pursuant to 47 U.S.C. § 214(e)(5) as of January 1, 1998;

~~(23)~~(25) "Standard," supporting universal interfaces and networking standards and protocols of generally accepted standards setting bodies;

~~(24)~~(26) "Switched," providing circuit, packet, or channel type switching, each suited to specific application requirements;

~~(25)~~(27) "Switched access," ~~an~~ any exchange access service purchased for the origination and termination of interexchange telecommunications services which includes central office switching and signaling, local loop facility, or local transport;

1 ~~(26)~~(28) "Telecommunications company," any person or municipal corporation owning,
2 operating, reselling, managing, or controlling in whole or in part, any
3 telecommunications line, system, or exchange in this state, directly or
4 indirectly, for public use. For purposes of this definition the term, for public
5 use, means for the use of the public in general or for a specific segment of the
6 public, or which connects to the public in general or for a specific segment of
7 the public, or which connects to the public switched network for access to any
8 telecommunications service;

9 ~~(27)~~(29) "Telecommunications service," the transmission of signs, signals, writings,
10 images, sounds, messages, data, or other information of any nature by wire,
11 radio, lightwaves, electromagnetic means, or other similar means. It does not
12 include the provision of terminal equipment used to originate or terminate such
13 service, broadcast transmissions by radio, television, and satellite stations
14 regulated by the Federal Communications Commission and one-way cable
15 television service;

16 (30) "Telephone solicitation call," any call made to a South Dakota consumer by a
17 telephone solicitor, originating from South Dakota or elsewhere, for the purpose of
18 soliciting a sale of any consumer goods or services to the person called, for the
19 purpose of soliciting an extension of credit for consumer goods or services to the
20 person called, or for the purpose of obtaining information that may be used for the
21 direct solicitation of a sale of consumer goods or services to the person called or an
22 extension of credit for such purposes;

23 (31) "Telephone solicitor," any person or organization who individually or through
24 salespersons, makes or causes to be made a telephone solicitation call. This term does

1 not include any not-for-profit or charitable organization exempt from federal income
2 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 as of
3 January 1, 2003, which makes telephone calls solely to solicit a charitable donation;

4 (32) "Unsolicited telephone call," any telephone solicitation call other than a call made:

5 (a) In response to an express request of the person called;

6 (b) Primarily in connection with an existing debt or contract, payment or
7 performance of which has not been completed at the time of such call;

8 (c) To any person with whom the telephone solicitor, or any business or financial
9 institution on whose behalf the telephone call is being made has an established
10 business relationship or a business relationship that existed within the
11 immediately preceding twelve months; or

12 (d) To any person for the purpose of obtaining information and establishing a date
13 and time for an appointment with the telephone solicitor which will take place
14 at the solicitor's place of business or the consumer's home and the call is not
15 made by an automated telephone dialing system. For purposes of this
16 subsection, an automated telephone dialing system is any automatic terminal
17 equipment that stores or produces numbers to be called randomly or
18 sequentially;

19 ~~(28)~~(33) "Wideband network," the wideband network extends the range of fully
20 switched, digital, addressable information transport from the 144 Kbps to the
21 DS3 rate of 44.736 Mbps, including the DS1 and DS2 rates of 1.544 Mbps and
22 6.312 Mbps, respectively.

23 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 Any telephone solicitor who makes unsolicited telephone calls shall institute procedures that
2 comply with the provisions of this Act for obtaining a list of persons who do not wish to receive
3 unsolicited telephone calls made by or on behalf of the telephone solicitor. No telephone solicitor
4 who makes unsolicited telephone calls may call any number listed on the register. The
5 commission may promulgate rules, pursuant to chapter 1-26, concerning procedures and
6 requirements regarding the implementation of a register, setting of fees for purchase of the
7 register, form of the application, requirements for acquiring a copy of the register, requirements
8 for enrollment on and removal from the register, procedures for maintaining a register, setting
9 of fees to enroll or renew enrollment on the register, procedures for operating the register,
10 standards concerning the use of the register, and application of the civil fines.

11 Section 3. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The commission shall maintain a register of names and telephone numbers of each South
14 Dakota residential telephone subscriber who has elected not to receive unsolicited telephone
15 calls.

16 Section 4. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential
19 telephone subscribers shall obtain a copy of the register from the commission. The register shall
20 be updated not more often than quarterly. Each telephone solicitor shall submit an application
21 to the commission to obtain a copy of the register. Any telephone solicitor desiring to make an
22 unsolicited telephone call shall update his or her copy of the register within thirty days after the
23 receipt of the register.

24 Section 5. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 There is hereby established in the state treasury, the telephone solicitation account. Unless
3 otherwise provided by law, this fund shall consist of all fees and fines imposed pursuant to this
4 Act designated for deposit in the fund. The fund shall be maintained separately and administered
5 by the commission to implement and administer provisions of this Act. Any interest earned on
6 money in the fund shall be deposited in the fund. Expenditures from the fund shall be budgeted
7 through the normal budget process. Unexpended funds and interest shall remain in the fund until
8 appropriated by the Legislature. Any expenditure from the fund shall be disbursed on warrants
9 drawn by the state auditor and shall be supported by vouchers approved by the commission.

10 Section 6. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential
13 telephone subscribers shall pay to the commission an annual fee of not more than five hundred
14 dollars. Fees collected under this section shall be credited to the telephone solicitation account.

15 Section 7. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The commission shall establish or provide for the operation of a register. The register may
18 be operated by the commission or by another entity under contract with the commission. A
19 residential telephone subscriber may enroll on the register in accordance with procedures
20 prescribed by the commission. A subscriber shall pay to the commission a fee, set pursuant to
21 section 2 of this Act, of not more than five dollars to be listed on the register. Fees collected
22 under this section shall be credited to the telephone solicitation account established in section 5
23 of this Act.

24 Section 8. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Notwithstanding the provisions of chapter 49-1A, the commission may use amounts
3 deposited in the gross receipts tax fund to implement this Act. All funds used shall be returned
4 to the gross receipts tax fund within three years of implementation of the register.

5 Section 9. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any telecommunications company that provides local exchange service shall inform its
8 customers of the provisions of this Act by publication of the notice in the consumer pages of its
9 telephone directories.

10 Section 10. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any person who violates this Act or any rules promulgated pursuant to this Act is subject
13 to a civil penalty to be imposed by the commission, after notice and opportunity for hearing. The
14 commission may impose a civil fine of not more than five thousand dollars for each offense. In
15 determining the amount of the penalty upon finding a violation, or the amount of a compromise
16 settlement, the commission shall consider the appropriateness of the penalty to the size of the
17 business of the person charged, prior offenses and compliance history, and the good faith of the
18 person charged in attempting to achieve compliance. Any telephone solicitation made to a person
19 whose name first appears on the register is not a violation of this Act if the solicitation is made
20 within thirty days of the receipt of the register. Any penalty collected pursuant to this section
21 shall be credited to the telephone solicitation account established pursuant to section 5 of this
22 Act.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

527I0099

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 57** - 02/25/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Sutton (Dan), Abdallah, Duxbury, Earley, Ham, Jaspers, Kooistra, and Nachtigal and Representatives Nesselhuf, Adelstein, Christensen, Fryslie, Garnos, Gassman, Hargens, Hennies, Lange, Murschel, Pederson (Gordon), Rave, Schafer, Sebert, Van Gerpen, and Williamson

1 FOR AN ACT ENTITLED, An Act to provide for the temporary replacement of certain elected
2 officials called for active duty in the armed forces and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 3-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If any member of a governing body of a county, municipality, school district, township, or
7 special purpose district, who is also a member of the South Dakota National Guard or another
8 reserve component of the armed forces of the United States, is called into active duty which
9 causes the member to be unable to attend meetings of the governing body, the member may elect
10 to temporarily resign from the governing body. Notice of temporary resignation may be given
11 in the same manner as giving notice of resignation from such governing body. A temporary
12 replacement may be made in accordance with the provisions of statute applying to the governing
13 body. The temporary member shall serve until the member returns from active duty or until the



1 expiration of the member's term, whichever occurs first.

2 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,
3 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
4 effect from and after its passage and approval.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

662I0487

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 115** - 02/24/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Napoli, Apa, Bogue, Brown, Jaspers, Koskan, McCracken, and Sutton (Duane) and Representatives Rhoden, Garnos, Lintz, Olson (Mel), Putnam, and Teupel

1 FOR AN ACT ENTITLED, An Act to provide for a converted motor home title for certain
2 motor vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If any truck tractor is modified to become a motor home, the owner shall submit an
7 application to the Department of Revenue for a converted motor home title. To become a motor
8 home, the truck tractor shall be modified to include a vehicular-type unit built on the tractor's
9 chassis and designed primarily as temporary living quarters for recreational, camping, vacation,
10 or travel use. The unit shall be equipped with the following:

- 11 (1) Cooking facilities;
- 12 (2) A heating system or air conditioning system, or both, separate from the vehicle engine
13 or the vehicle engine electrical system;
- 14 (3) A self-contained toilet or a toilet connected to a plumbing system with connection for



1 external water disposal, or both;

2 (4) Portable water supply including plumbing and a sink with faucet either self-contained
3 or with connections for an external source, or both;

4 (5) Sleeping facilities;

5 (6) A refrigerator; or

6 (7) A one hundred ten or one hundred fifteen volt system separate from the vehicle engine
7 electrical system either with its own power supply or with a connection for an external
8 source, or both, or a liquefied petroleum system and supply.

9 The systems provided in subdivisions (2), (3), (4), and (7) shall be permanently installed and
10 meet American National Standards Institute and National Fire Protection Association standards
11 in effect on the date of manufacture.

12 The application shall include a picture of the vehicle and an affidavit signed by the truck
13 tractor owner stating that the vehicle will not be used for private business use and that the vehicle
14 meets the requirements of this section. The department shall provide the form for the affidavit.
15 If the department is satisfied that the conditions of this section are met, the department shall issue
16 a converted motor home title.

17 Section 2. For the purposes of this Act, if a motor home is used to transport a motor vehicle,
18 boat, or animal to a race, tournament, show, or similar event, the motor home is not deemed to
19 be engaged in a private business use if:

20 (1) Any prize money received from participating in such an activity is declared as ordinary
21 income for tax purposes;

22 (2) The cost of participating in such an activity is not deducted as a business expense for
23 tax purposes; and

24 (3) No corporate sponsorship exceeding two thousand dollars in any one calendar year

1 is involved in participating in such an activity.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

951I0193

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 125** - 02/25/2003

Introduced by: Senators Dempster and Symens and Representatives Hunhoff, Gillespie, Murschel, and Weems

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning joint county and
2 municipal planning and zoning.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 11-2-32 be amended to read as follows:

5 11-2-32. Nothing in this chapter ~~shall~~ may be construed to prevent or modify the powers of
6 an incorporated municipality, with a duly authorized planning commission, from exercising
7 planning and zoning jurisdiction within the corporate limits and from exercising jointly with the
8 county planning commission the planning and zoning authority within ~~three miles of a joint~~
9 jurisdictional area beyond the municipal corporate limits, as provided in §§ ~~11-6-11 and 11-6-12,~~
10 ~~and in chapter~~ chapters 11-4 and 11-6.

11 Section 2. That § 11-6-4.2 be amended to read as follows:

12 11-6-4.2. Notwithstanding the provisions of §§ 11-6-10 to 11-6-12, inclusive, the city
13 council and the board of county commissioners may by resolution adopted by a majority vote of
14 the full membership of both governing bodies establish a joint planning and zoning commission
15 to consider and make recommendations to the two governing bodies for zoning within ~~the area~~



1 ~~within three miles in all directions of a joint jurisdictional area beyond~~ the municipality's
2 corporate limits. The joint commission shall have such powers and follow such procedures as
3 may be agreed to in the resolution creating the commission; ~~provided, however, that.~~ However,
4 such powers and procedures shall be within the scope of powers and procedures provided in
5 chapters 11-2, 11-4, and this chapter.

6 Section 3. That § 11-6-10 be amended to read as follows:

7 11-6-10. The legislative body of ~~any~~ an incorporated municipality and a board of county
8 commissioners may jointly exercise the comprehensive planning and zoning powers granted in
9 this chapter and ~~chapter~~ chapters 11-2 and 11-4 ~~not only within its corporate limits, but also,~~
10 ~~subject to the provisions of § 11-6-12, within three miles in all directions of its~~ in a joint
11 jurisdictional area beyond the municipal corporate limits ~~and not located in any other~~
12 ~~municipality; provided, that nothing.~~ The joint jurisdictional area shall be delineated in a
13 comprehensive plan but in no instance may the area extend beyond a line equidistant from the
14 corporate limits of any other municipality unless otherwise agreed to by a majority vote of the
15 governing body of each municipality having a planning commission. Nothing contained in this
16 chapter ~~shall~~ may be construed to amend or repeal any provisions of chapter 49-34A.

17 The county and city planning commissions shall meet jointly and hold at least one public
18 hearing on the comprehensive plan. Notice of the time and place of the hearing shall be given
19 once by either the city or county at least ten days in advance by publication in a legal newspaper.
20 Following the public hearing, each planning commission shall submit a recommendation to their
21 respective governing body.

22 Section 4. That § 11-6-11 be amended to read as follows:

23 11-6-11. ~~The legislative body of any incorporated municipality may exercise all zoning~~
24 ~~powers granted in chapter 11-4, in the zoning of all land not only within its corporate limits, but~~

1 also, subject to the provisions of § 11-6-12, may zone all property within three miles in all
2 directions of its corporate limits not located in any other municipality; provided, however, any
3 ordinance intended to have application beyond the corporate limits of the municipality shall
4 expressly so provide and any such ordinance shall be adopted in accordance with the provisions
5 of chapter 11-4; however, in the case of such extra municipal land lying within three miles of
6 more than one first or second class municipality having a planning commission, the jurisdiction
7 of each municipality, shall terminate at a boundary line equidistant from the respective corporate
8 limits of such municipalities, unless otherwise agreed to by a majority vote of the governing
9 body of each such municipality. The governing bodies shall meet jointly and hold at least one
10 public hearing to consider the recommendations of the planning commissions on the
11 comprehensive plan for the joint jurisdictional area. Notice of the time and place of the hearing
12 shall be given once by either the city or county at least ten days in advance by publication in a
13 legal newspaper. Adoption of the comprehensive plan shall be by resolution of each governing
14 body. Such action is subject to §§ 11-6-18.2 and 11-2-21.

15 Section 5. That § 11-6-12 be amended to read as follows:

16 11-6-12. ~~Whenever a municipality assumes zoning jurisdiction in any area outside the limits~~
17 ~~of such municipality the county zoning commission of the county in which such area lies, shall~~
18 ~~sit with the city planning commission on all matters pertaining to the planning and regulation of~~
19 ~~such area and no zoning powers provided by this chapter or chapter 11-4 shall be effective in any~~
20 ~~such area until each of the commissions makes a recommendation to the city council and the~~
21 ~~board of county commissioners. Each planning commission shall make such recommendation to~~
22 ~~the council and commissioners within ninety days of a request by the city planning commission~~
23 ~~that the county planning commission sit with them for purposes of zoning in the area outside the~~
24 ~~corporate limits of the municipality. Following adoption of a comprehensive plan by the~~

1 governing bodies, the city and county planning commissions may prepare zoning regulations for
2 all property in the joint jurisdictional area consistent with the comprehensive plan. The
3 regulations shall delineate the authority of the governing bodies over all zoning matters
4 pertaining to the joint jurisdictional area. Such regulations may include relinquishment by the
5 county of some or all of its zoning authority within the joint jurisdictional area. In those instances
6 where a county has granted to a municipality sole zoning authority beyond said municipality's
7 existing corporate limits, the notice and public hearing requirements of chapter 11-4 shall apply.

8 The county and city planning commissions shall meet jointly and hold at least one public
9 hearing on the zoning regulations. Notice of the time and place of the hearing shall be given once
10 by either the city or county at least ten days in advance by publication in a legal newspaper.
11 Following the public hearing, each planning commission shall submit a recommendation to each
12 respective governing body.

13 Section 6. That § 11-6-12.1 be amended to read as follows:

14 11-6-12.1. Following notice and public hearing as required by §§ 11-2-19 and 11-4-4, the
15 board of county commissioners and the municipal governing body shall meet jointly and take
16 action upon the recommendations from the two planning commissions. ~~No zoning powers may~~
17 ~~be exercised by a municipality within the three-mile area outside of its corporate limits unless the~~
18 ~~board of county commissioners relinquishes zoning jurisdiction in such area to the municipality,~~
19 ~~or unless the municipal governing body and the board of county commissioners, by majority vote~~
20 ~~of the full membership of each, approve a substantially identical zoning ordinance for zoning of~~
21 ~~such area. If the municipal governing body adopts a comprehensive plan, defined by a boundary~~
22 ~~map, for areas outside the corporate limits, but not for areas more than one mile beyond the~~
23 ~~corporate limits, the municipal governing body may petition the board of county commissioners~~
24 ~~to relinquish zoning jurisdiction within the area included in the comprehensive plan. The board~~

1 ~~of county commissioners may relinquish zoning jurisdiction within such area upon such petition.~~
2 ~~If a petition has been filed, the county planning and zoning commission shall notify the municipal~~
3 ~~planning and zoning commission of all requests for building permits within the one-mile area. The~~
4 ~~county may not approve such building permit requests until the municipal planning and zoning~~
5 ~~commission acknowledges receipt of such notification or until the municipal planning and zoning~~
6 ~~commission has had thirty days within which to acknowledge receipt of such notification. The~~
7 ~~zoning regulations that apply in the joint jurisdictional area shall be adopted by ordinance of each~~
8 ~~governing body. The notice and public hearing requirements of this section apply to any~~
9 ~~proposed amendments to the zoning regulations. Any change in the zoning of property is subject~~
10 ~~to the requirements of §§ 11-2-19 and 11-2-28.1.~~

11 Section 7. That § 11-6-13.1 be repealed.

12 ~~— 11-6-13.1. Following notice and public hearing as required by § § 11-2-19 and 11-4-4, the~~
13 ~~board of county commissioners and the city council shall meet together and take action upon the~~
14 ~~recommendations from the joint planning and zoning commission. Action shall be taken upon~~
15 ~~such zoning recommendations only by both governing bodies adopting by a majority vote of the~~
16 ~~full membership of each, a substantially identical zoning ordinance for the zoning of such area.~~

17 Section 8. That § 11-6-40 be amended to read as follows:

18 11-6-40. Any municipality with a population of fifty thousand or more or any municipality
19 located in a county with a population of fifty thousand or more ~~that, if such municipality~~ has
20 adopted a comprehensive plan pursuant to this chapter, the municipality may require by
21 ordinance that any parcel of land of less than forty acres ~~or less~~ which is located within ~~the~~
22 ~~extraterritorial limits of the municipality, as defined by §§ 11-6-10 and 11-6-11~~ three miles of its
23 corporate limits, be platted prior to the sale or transfer of ~~such the~~ land. The register of deeds
24 may not record any document of any sale or transfer of unplatted property if a municipality

1 requires platting pursuant to this section.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

258I0523

HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB 133** - 02/25/2003

Introduced by: Senators Duenwald, Abdallah, and Dempster and Representatives Teupel, Davis, Hackl, Juhnke, Lintz, Peterson (Jim), and Rhoden

1 FOR AN ACT ENTITLED, An Act to permit the county levy and rural fire protection district
2 levy to be increased for fire fighting purposes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of § 10-13-35, any county that levies a property tax for fire
7 fighting pursuant to § 34-31-3 or rural fire protection district that levies a property tax for fire
8 fighting pursuant to § 34-31A-22 may increase the total amount of revenue payable from such
9 taxes on real property. This increase may be made to the taxes payable in either 2004 or 2005,
10 or both. For taxes payable in 2006, and each year thereafter, the total amount of revenue payable
11 from taxes on real property pursuant to §§ 34-31-3, 34-31A-21, and 34-31A-32 may increase
12 no more than the amount provided in §§ 10-13-35 to 10-13-36, inclusive.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

980I0659

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 166** - 02/14/2003

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senator Diedrich (Larry) and Representative Begalka

1 FOR AN ACT ENTITLED, An Act to require the notification of certain telecommunication
2 companies of the development of a wind collector system and to provide for a planning
3 meeting.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. As used in this Act, the term, wind collector system, means all power lines and
6 associated equipment located between the first substation and the wind turbines that collect
7 electricity and transmit it from the wind turbines to the first substation.

8 Section 2. Any person, any political subdivision of this state, or any other public or private
9 entity, however organized, that constructs, maintains, or operates a wind collector system for
10 the purpose of producing electric energy shall, prior to the conclusion of planning for
11 construction of any such project, notify in writing any telecommunications company having
12 telecommunications facilities located within one mile of the proposed site, according to the
13 records of the one-call notification system established by chapter 49-7A, of the intent to
14 construct and the proposed location of the wind collector system. The telecommunications
15 company shall contact the developer of the wind collector system at the address given in the



1 notice required by this section within thirty days of the notice required by this Act and request
2 a planning meeting to be held within thirty days of the request with the developer of the wind
3 collector system at a location mutually convenient to both parties. A planning meeting, once
4 properly requested, shall be held and attended by knowledgeable representatives of the parties.
5 If no request for a planning meeting is made, the developer is not required to meet with the
6 telecommunications company. At the meeting the parties may discuss any concerns with the
7 location or engineering design of the wind collector system, including the avoidance of inductive
8 interference associated with the project.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

582I0685

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SCR 5** - 02/24/2003

Introduced by: Senators Ham, Albers, Bogue, Brown, Diedrich (Larry), Duenwald, Duniphan, Duxbury, Kelly, Kleven, Kooistra, McCracken, Reedy, Sutton (Duane), Symens, and Vitter and Representatives Adelstein, Bradford, Cutler, Engels, Gassman, Gillespie, Hennies, Klaudt, Kraus, Smidt, Valandra, Van Norman, and Weems

1 A CONCURRENT RESOLUTION, Creating a South Dakota strategy for suicide prevention.

2 WHEREAS, suicide is consistently among the top ten leading causes of death in South
3 Dakota. In recent years suicide has been the second leading cause of death in South Dakota for
4 youth and young adults between the ages of fifteen through thirty-four. Indeed, suicide is the
5 cause of death for about one hundred people every year in South Dakota; and

6 WHEREAS, between two and three thousand suicide attempts occur annually in South
7 Dakota, resulting in hundreds of serious or disabling physical injuries and in mental and
8 emotional stress to individuals as well as in emotional trauma and hardship to their families; and

9 WHEREAS, each suicide drastically affects numerous family members, friends, and
10 colleagues who must grieve the death of a loved one, a grief that is debilitating for many people.
11 There are approximately forty thousand people in South Dakota who have had a loss to suicide
12 interrupt their lives; and

13 WHEREAS, the suicide death rate per one hundred thousand people in South Dakota is



1 about one-and-a-half times the rate of suicide in the United States, on average. The suicide death
2 rate for people, ages fifteen to twenty-four, in South Dakota is twice the rate of suicide in the
3 United States; and

4 WHEREAS, the suicide completion rate is very high for young people in South Dakota and
5 extremely high for elderly white men and young Native American men; and

6 WHEREAS, the stigma associated with mental illness deters suicide prevention by keeping
7 people at risk of completing suicide from seeking lifesaving help; and

8 WHEREAS, the stigma associated with suicide deaths seriously inhibits surviving family
9 members from regaining healthy lives and a sense of meaning in life; and

10 WHEREAS, suicide deaths impose an enormous unrecognized and unmeasured economic
11 burden on South Dakota in terms of potential years of life lost and medical costs and in terms
12 of decreasing the capacity of mourners to contribute to their work, their families, and their
13 communities; and

14 WHEREAS, the causes of suicide are complex and multifaceted, involving biological,
15 sociological, psychological, and societal factors; and

16 WHEREAS, even though the link between mental illness and suicide is well established and
17 many suicides are preventable, there is still an urgent and ongoing need for the development of
18 effective mental-health promotion and suicide prevention programs; and

19 WHEREAS, the opportunity is present now for a comprehensive, research-based response
20 to suicide prevention because of recent and ongoing advances in clinical research, in the
21 treatment of mental disorders, in basic neuroscience, and in the development of community-based
22 initiatives for prevention; and

23 WHEREAS, suicide prevention efforts should be encouraged and supported to the greatest
24 extent possible:

1 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Seventy-eighth Legislature
2 of the State of South Dakota, the House of Representatives concurring therein, that the
3 Legislature of the State of South Dakota recognizes that suicide is a significant problem in the
4 state, and declares the prevention of suicide be made a state priority by strengthening the private
5 and public entities charged with addressing the problem to be a state priority; and

6 BE IT FURTHER RESOLVED, that the Legislature acknowledges that no single suicide
7 prevention program or effort will be appropriate for all populations or communities; and

8 BE IT FURTHER RESOLVED, that the Legislature encourages the development and the
9 promotion of accessibility and affordability of mental health services enabling all persons at risk
10 for suicide to obtain effective services without fear of stigma; and

11 BE IT FURTHER RESOLVED, that the Legislature encourages the development of
12 evidence-based initiatives dedicated to preventing suicide, to responding to those at risk for
13 suicide and who have attempted suicide, and to supporting people who have lost someone to
14 suicide; and

15 BE IT FURTHER RESOLVED, that the Legislature supports the creation of a South
16 Dakota strategy for suicide prevention that will lay the groundwork for suicide prevention efforts
17 that are designed specifically for use in South Dakota communities and based on the principles
18 outlined in the national strategy for suicide prevention.